

AN ORDINANCE

BY: COUNCILMEMBER KWANZA HALL *and [signature]*

TO AMEND THE CASTLEBERRY HILL LANDMARK DISTRICT REGULATIONS OF THE 1982 ZONING ORDINANCE OF THE CITY OF ATLANTA, AS AMENDED, SO AS TO: PROVIDE FOR CERTAIN DEVELOPMENT CONTROLS RELATING TO THE SPACING BETWEEN ESTABLISHMENTS LICENSED TO SELL ALCHOLIC BEVERAGES; REVISING THE OFF STREET PARKING REGULATIONS FOR ESTABLISHMENTS LICENSED TO SELL ALCHOLIC BEVERAGES; PROHIBITING CERTAIN USES AND FOR OTHER PURPOSES.

WHEREAS, the Castleberry Hill residential neighborhood is an invaluable and irreplaceable resource which greatly contributes to the health, safety and welfare of all residents and visitors of the City of Atlanta; and

WHEREAS, in recognition of such contribution and the historic character of this resource, City Council adopted the Castleberry Hill Landmark District Regulations as an amendment to the 1982 Zoning Ordinance of the City of Atlanta, as amended; and

WHEREAS, among the purposes of the Castleberry Hill Landmark District Regulations are the intention to encourage compatible economic development and neighborhood revitalization that will promote a livable, sustainable neighborhood and to ensure that new development will be compatible with and sensitive to the historic character of the Landmark District; and

WHEREAS, the success of the redevelopment efforts in the Landmark District and its unique attributes have attracted numerous new businesses including a number of establishments licensed to sell alcoholic beverages by the drink; and

WHEREAS, the residents of and visitors to the Landmark District have recently observed a surge in disorderly conduct and criminal activity as set forth in the incident report summary attached hereto as Exhibit "A"; and

WHEREAS, such conduct and activity is an acute threat to the healthy, safety and welfare of the residents of and visitors to the Landmark District and has frustrated the purposes of the Landmark District Regulations; and

WHEREAS, the small size of the Landmark District makes it necessary to control the number of establishments selling alcoholic beverages by the drink and the number of package stores in order to preserve its character and prevent the creation of a "bar district" requiring increased police presence and crowding out other uses; and

WHEREAS, even with a limitation as to the number of establishments licensed to sell alcoholic beverages by the drink, it is necessary to increase the parking required for such establishments;

WHEREAS, the health, safety and welfare of the residents of and visitors to the Landmark District and the purposes of the Landmark District Regulations can be furthered by amending the Landmark District Regulations to address these issues as more fully set forth below.

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS AS FOLLOWS:

Section 1. That the City of Atlanta Zoning Code regulating permitted principal uses and structures in the Castleberry Hill Landmark District be amended by adding the following section to be codified as Section 16-20N.009 which shall read as follows:

16-20N.009. Additional use regulations.

In addition to the regulations governing permitted uses set forth in this Chapter, or elsewhere in this Code the following regulations shall apply to permitted uses in this district:

1. *Eating and drinking establishments.* The following supplemental regulations shall apply in Subarea 1 and Subarea 2:

(a) No eating and drinking establishment with an alcohol license may be located within two hundred and fifty (250) feet of another eating and drinking establishment with an alcohol license, including an establishment located outside of the Castleberry Hill Landmark District.

(b) Notwithstanding the location of any other premises with an alcohol license, an eating and drinking establishment where sales of alcoholic beverages by the drink constitute less than 50% of gross sales may be located within a mixed-use development greater than 10,000 square feet provided that all of the licensed establishments located in such mixed-use development constitute in the aggregate no more than twenty-five percent (25%) of the total square footage of nonresidential floor area in such mixed-use development.

(c) Accessory outdoor dining area to any eating and drinking establishment which is otherwise permitted by these regulations may not be located within one hundred (100) feet of any dwelling except those located in the same structure;

2. *Specifically prohibited uses.* Without regard to whether such uses are allowed as a permitted use in other zoning districts under the list of permitted

uses allowed in this district, the following uses are prohibited either as primary or accessory uses:

- (a) Cinema/movie theatre;
- (b) Bowling alley;
- (c) Skating rink;
- (d) Video game room, amusement gallery or amusement arcade;
- (e) Pool hall;
- (f) Massage parlor or facility;
- (g) Tattooing and/or piercing;
- (h) Adult businesses as defined in section 16-29.001(3);
- (i) Package stores;
- (j) Bottle houses;
- (k) Any establishment which provides "pawn transactions" as defined in O.C.G.A. § 44-12-130 as it exists now or as it may be amended;
- (l) Offering check cashing services pursuant to a license issued pursuant to Article 4A of Chapter 7 of the Official Code of Georgia;
- (m) Any institution except for banks, trust companies, credit unions, business development corporations, building and loan associations, mortgage lenders and mortgage brokers, which offer to loan money to the public. This provision shall not act to prevent the credit sale of goods by any business establishment.

3. *Hours of Operation.* No business establishment is permitted to operate except during the following hours:

- (a) Sunday - Thursday: 6:00 a.m. to 12:00 a.m.
- (b) Friday and Saturday: 6:00 a.m. to 1:00 a.m.

Section 2. That Section 16-20N.007(3) of the City of Atlanta Zoning Code, Castleberry Hill Landmark District Regulations, concerning off-street parking requirements in Subarea 1 and reading as follows:

3. *Off-street parking requirements.* The following parking requirements shall apply to all uses:

- (a) Off-street parking shall not be permitted between the principal building and the public street.
- (b) Off-street parking may be located in a rear or side yard.
- (c) All dwellings: Off-street parking requirements shall be as follows: See section 16-08.007, Table I, for applicable ratios according to the appropriate floor area ratio.
- (d) All other uses: No off-street parking is required.

be amended so that this section shall read as follows, new language is underlined, and deleted language is ~~stricken~~ as indicated:

3. *Off-street parking requirements.* The following parking requirements shall apply to all uses:

- (a) Off-street parking shall not be permitted between the principal building and the public street.
- (b) Off-street parking may be located in a rear or side yard.
- (c) All dwellings: Off-street parking requirements shall be as follows: See section 16-08.007, Table I, for applicable ratios according to the appropriate floor area ratio.
- (d) Eating and drinking establishments: One space for each 100 square feet of floor area. Where an eating and drinking establishment derives more than 60 percent of its gross income from the sale of malt beverages, wine and/or distilled spirits, it shall be required to have one space for each 75 square feet of floor area. Floor area shall include, in addition to those areas defined in section 16-29.001(13)(b), areas within the existing building footprint where walls have been removed and a permanent roof remains.
- (e) All other uses: No off-street parking is required.

Section 3. That Section 16-20N.008(11) of the City of Atlanta Zoning Code, Castleberry Hill Landmark District Regulations, concerning off-street parking requirements in Subarea 2 and reading as follows:

11. *Off-street parking requirements.* The following parking requirements shall apply to all uses:

- (a) All dwellings: Off-street parking requirements shall be as follows: See section 16-08.007, Table I, for applicable ratios according to the appropriate floor area ratio.
- (b) All non-residential uses: Off-street parking shall be required as set out in section 16-16.009. All non-residential uses not specified in section 16-16.009 shall provide one parking space for each 300 square feet of floor area.
- (c) For parcels less than 4,000 square feet, no off-street parking is required for non-residential uses.

be amended so that this section shall read as follows, new language is underlined, and deleted language is ~~stricken~~ as indicated:

11. *Off-street parking requirements.* The following parking requirements shall apply to all uses:

- (a) All dwellings: Off-street parking requirements shall be as follows: See section 16-08.007, Table I, for applicable ratios according to the appropriate floor area ratio.
- (b) ~~All non-residential uses~~ Non-residential uses: Off-street parking shall be required as set out in section 16-16.009. All non-residential uses not specified in section 16-16.009 shall provide one parking space for each 300 square feet of floor area, except as provided below:
 - (i) Other than for eating and drinking establishments, no off-street parking is required for non-residential uses occupying a single parcel not larger than 4,000 square feet.
 - (ii) Eating and drinking establishments: One space for each 100 square feet of floor area. Where an eating and drinking establishment derives more than 60 percent of its gross income from the sale of malt beverages, wine and/or distilled spirits, it shall be required to have one space for each 75 square feet of floor area. Floor area shall include, in addition to those areas defined in section 16-29.001(13)(b), areas within the existing building footprint where walls have been removed and a permanent roof remains.
- (c) ~~For parcels less than 4,000 square feet, no off-street parking is required for non-residential uses.~~

Section 5. This ordinance shall become effective immediately upon signing by the Mayor or as otherwise provided by the operation of law.

Exhibit A
Incident Report Summary

District incidents with filed police reports January 2, 2007 – December 14, 2007

<u>Offense</u>	<u># Reported</u>
Aggravated Assault/Battery	2
Attempted Auto Theft	6
Auto theft	24
Burglary Forced Entry/Non-Residential	7
Burglary No Forced Entry/Non-Residential	2
Larceny Articles from Vehicle	80
Larceny Parts from Vehicle	15
Larceny – Pick Pocketing	
Rape – Strongarm	1
Robbery – Business – Gun	1
Robbery Misc. – Gun	1
Robbery Misc. – Other – Weapon	1
Robbery Misc. – Strongarm	1
Robbery Residence – Gun	3
Robbery – Street – Gun	19
Robbery – Street – Other Weapon	1
Robbery – Street – Strongarm	2
Theft of Other Vehicle	2
Theft of Truck/Van/Bus	17

District incidents reported to Castleberry Hill Neighborhood Association
April 1, 2007 – December 14, 2007

*All incidents below occurred during late nightclub hours.

1. 8 criminal to criminal incidents
 - a. Fighting on Peters Street
 - b. Stabbing on Peters Street
2. 9 reports of gunshots
3. 56 noise violations reported
4. **12:30am** - Armed individual running down alleyway (behind bars) with a gun. The individual was apprehended by the police after tossing the gun into a resident's yard. The resident found the weapon and turned it over to the police.
5. **3:24am** – reports of gunshots, 2 residents found bullets in their lofts shortly thereafter
6. 335 parking tickets written – 3 month period
7. 65 vehicles towed – 3 month period
8. 26 arrests for disorderly conduct – 3 month period